

Liability and Workers' Compensation Protections for Volunteers

Qualified volunteers receive the same liability protections and workers' compensation coverage as state employees when they are training for or responding to a public health event or in an emergency. To be qualified for these protections, volunteers must serve at the request of and under the direction of a state agency, such as the Department of Health, they may not receive hourly or salary compensation and additional criteria also may apply. The full text of these laws includes additional information about eligibility and the extent of the coverage and is available online as indicated below.

Vermont Laws Relating to Volunteer Protections

Please note that Act 209, which was passed in the 2006 legislative session, includes new provisions relating to liability and workers' compensation protections for volunteers. These provisions were effective on July 1, 2006. Act 209 is available online at:

<http://www.leg.state.vt.us/docs/legdoc.cfm?URL=/docs/2006/acts/ACT209.HTM>

Definition of volunteer:

See, 3 V.S.A. Chapter 29 and, in particular, § 1101(b)(4) (Note that this section is specifically referenced in many of the other provisions listed below:

<http://www.leg.state.vt.us/statutes/fullchapter.cfm?Title=03&Chapter=029>

Tort Claims – Liability Coverage and Immunity:

See, 12 V.S.A. Chapter 189 and, in particular, § 5602(c)

<http://www.leg.state.vt.us/statutes/fullchapter.cfm?Title=12&Chapter=189>

Additional Liability Protections in 20 V.S.A. Chapter 1:

<http://www.leg.state.vt.us/statutes/fullchapter.cfm?Title=20&Chapter=001>

Note: Liability Protection for People who Donate their Property or Facilities:

See, Act 209, Sec. 21 amending 20 V.S.A § 29 to provide:

§ 29. EMERGENCY SHELTERS; NO PRIVATE LIABILITY

Any person owning or controlling premises who voluntarily and without compensation grants a license or privilege, or otherwise permits the designation or use of the whole or any part of such land and premises for the purpose of sheltering persons or animals or providing health-related services during a declared emergency or practice drill in cooperation with a federal, state, or political subdivision shall together with successors in interest not be civilly liable for negligence causing the death of or injury to any person on or about the land and premises or for loss of or damage to the property of the person during a declared emergency or practice drill.

Note: Liability Protection for Volunteers and Other Persons Engaged in Emergency Management Activities

See, Act 209, Sec. 16 amending 20 V.S.A. § 20(a) to provide:

(a) Except in the case of willful misconduct or gross negligence, the state, any of its agencies, state employees as defined in section 1101 of Title 3, political subdivisions, local emergency planning committees, or individual, partnership, association, or corporation involved in emergency management activities shall not be liable for the death of or any injury to persons or loss or damage to property resulting from an emergency management service or response activity, including the development of local emergency plans and the response to those plans. Nothing in this section shall exclude the state, its agencies, political subdivisions, or employees from the protections and rights provided in chapter 189 of Title 12.

Note: Compensation for Injury or Death

See, Act 209, Sec. 17 amending 20 V.S.A. § 21 to provide:

§ 21. COMPENSATION FOR INJURY OR DEATH

A volunteer, as set forth in subdivision 1101(b)(4) of Title 3, shall be entitled to compensation as provided in Titles 21 and 29.

Workers' Compensation:

21 V.S.A. Chapter 9

<http://www.leg.state.vt.us/statutes/fullchapter.cfm?Title=21&Chapter=009>

Note: Definition of "Public Employment:

See, Act 209, Sec. 32 amending 21 V.S.A. § 601(12) to provide:

(12) "Public employment" means the following:

(A) all officers and state employees, as defined in section 1101 of Title 3, of all state agencies, departments, divisions, boards, commissions, and institutions, and the Vermont historical society;

Note: Computation of Average Wage for Volunteers:

See, Act 209, Sec. 33 amending 21 V.S.A. § 650(a) to provide:

§ 650. PAYMENT; AVERAGE WAGE; COMPUTATION

(a) Average weekly wages shall be computed in such manner as is best calculated to give the average weekly earnings of the worker during the 12 weeks preceding an injury; but where, by reason of the shortness of the time during which the worker has been in the employment, or the casual nature of the employment, or the terms of the employment, it is impracticable to compute the rate of remuneration, average weekly wages of the injured worker may be based on the average weekly earnings during the 12 weeks previous to the injury earned by a person in the same grade employed at the same or similar work by the employer of the injured worker, or if there is no comparable employee, by a person in the same grade employed in the same class of employment and in the same district. If during the period of 12 weeks an injured employee has been absent from employment on account of sickness or suspension of work by the employer, then only the time during which the employee was able to work shall be used to determine the employee's average weekly wage. If the injured employee is employed in the concurrent service of more than one insured employer or self-insurer the total earnings from the several insured employers and self-insurers shall be combined in determining the employee's average weekly

wages, but insurance liability shall be exclusively upon the employer in whose employ the injury occurred. The average weekly wage of a volunteer firefighter, volunteer rescue or ambulance worker, volunteer reserve police officer, or volunteer as set forth in subdivision 1101(b)(4) of Title 3, who is injured in the discharge of duties as a firefighter, rescue or ambulance worker, police officer, or state agency volunteer, shall be the employee's average weekly wage in the employee's regular employment or vocation but the provisions of section 642 of this title relative to maximum weekly compensation and weekly net income rates, shall apply. For the purpose of calculating permanent total or permanent partial disability compensation, the provisions relating to the maximum and minimum weekly compensation rate shall apply. In any event, if a worker at the time of the injury is regularly employed in a higher grade of work than formerly during the 12 weeks preceding the injury and with larger regular wages, only the larger wages shall be taken into consideration in computing the worker's average weekly wages.